

TEMPORARY FINAL RULE
Field Regulations

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD ¹³⁻⁰³ ~~03-13~~-031]

RIN 1625-AA00

USCG-03-16436-94

Security Zone; Snake River, Ice Harbor Lock and Dam,
Kennewick, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a security zone on the waters of the Snake River in the vicinity of the Ice Harbor Lock and Dam on August 22, 2003. The Captain of the Port, Portland, Oregon, is taking this action to safeguard the President of the United States from terrorism, sabotage, or other subversive acts during a visit to the Ice Harbor Lock and Dam. Entry into this zone is prohibited unless authorized by the Captain of the Port.

DATES: This rule is effective from 8:30 a.m. (PDT) to 11:30 a.m. on August 22, 2003.

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ADDRESSES: Documents indicated in this preamble as being available in the docket (CGD 13-03-031), are available for inspection or copying at the U.S. Coast Guard MSO / Group, 6767 N. Basin Ave, Portland, Oregon 97217 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Tad Drozdowski, at (503) 240-9374.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Publishing a NPRM would be contrary to public interest. Due to the nature of the event, the Coast Guard was not notified by the United States Secret Service of final details concerning the President's visit until less than 30 days prior to the date of the event. If normal notice and comment procedures were followed, national security would be compromised.

Background and Purpose

The Coast Guard is adopting a temporary security zone regulation to safeguard the President of the United States

from terrorism, sabotage, or other subversive acts during a visit to the Ice Harbor Lock and Dam. This security zone will be enforced by representatives of the Captain of the Port, Portland, Oregon. The Captain of the Port may be assisted by other federal and local agencies.

Discussion of Rule

The Captain of the Port, Portland, Oregon, is taking this action to safeguard the President of the United States from terrorism, sabotage, or other subversive acts during a visit to the Ice Harbor Lock and Dam. The security zone is an area formed by a line one mile west of the Ice Harbor Lock and Dam from a fixed light with the following characteristics (Fl G 2.5s 15ft 4M "19") south to the shoreline to another line at a fixed light one mile east of the Dam with the following characteristics (Fl G 2.5s 21ft "3") south to the shoreline. Entry into this security zone is prohibited unless authorized by the Captain of the Port.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of

Homeland Security (DHS). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This expectation is based on the fact that this rule will be in effect for the minimum time necessary to accommodate the President's arrival, visit, and departure from the Ice Harbor Lock and Dam. Traffic will be allowed to pass through the zone with the permission of the Captain of the Port or his designated representatives on scene, if safe to do so.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit this section of the Snake River. The security zone will not have a significant economic impact on

a substantial number of small entities for the following reasons. This rule will be in effect for the minimum time necessary to accommodate the arrival, visit, and departure of the President to the Ice Harbor Lock and Dam. Traffic will be allowed to pass through the zone with the permission of the Captain of the Port or his designated representatives on scene, if safe to do so. Because the impacts of this proposal are expected to be so minimal, the Coast Guard certifies under 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the

Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).]

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an

expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian

tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(g) of the Instruction, from further environmental documentation. A final "Environmental Analysis Check List" and a final

"Categorical Exclusion Determination" will be available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165 [AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

2. A temporary § 165.T13-021 is added to read as follows:

§ 165.T13-021 Security Zone; Snake River, Ice Harbor Lock and Dam, Kennewick, WA.

(a) Location. The following area is a security zone on the Snake River: the area formed by a line one mile west of the Ice Harbor Lock and Dam from a fixed light with the following characteristics (Fl G 2.5s 15ft 4M "19") south to the shoreline to another line at a fixed light one mile east of the Dam with the following characteristics (Fl G 2.5s 21ft "3") south to the shoreline. Entry into this security

zone is prohibited unless authorized by the Captain of the Port.

(b) Enforcement Period. This regulation is effective from 8:30 a.m. (PDT) to 11:30 a.m. (PDT) on August 22, 2003.

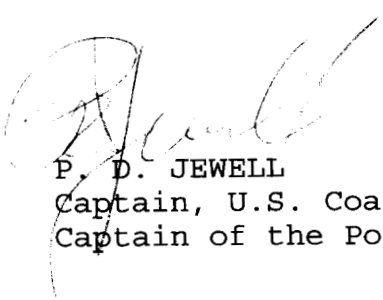
(c) Regulations.

(1) In accordance with Sec. 165.23, entry into these zones is prohibited unless authorized by the Coast Guard Captain of the Port, Portland or his designated representatives. Section 165.23 also contains other general requirements. Announcement of enforcement periods may be made by the methods described in 33 CFR 165.7, or any other reasonable method.

(d) Authority. In addition to 33 U.S.C. 1231, the authority for this section includes 33 U.S.C. 1226.

DATED:

AUG 20 2003


P. D. JEWELL
Captain, U.S. Coast Guard
Captain of the Port, Portland